

REMARKS

Claim status. Claims 1 to 7, 63 and 64 remain pending in the application. No claim has been added, amended, or canceled.

In general. With respect to all grounds for rejection, the Applicants would like the Examiner to consider the following remarks.

The Office Action repeatedly stated that the Applicants were claiming “a randomized Ang-2 binding peptide.” See the Office Action of 09/29/05 at pages 5 and 6. The Applicants are not, however, merely claiming “a randomized Ang-2 binding peptide.” Instead, they are claiming a molecule of the formula $(X^1)_a-F^1-(X^2)_b$ in which Ang-2 binding peptides are substituents.

The Office Action also stated that “it appears that the novelty of the instant invention resides on the random binding peptide that binds to ang-2.” (Office Action at page 6). The ang-2 binding activity, however, distinguishes the claimed invention over this application’s sister applications¹, which are not part of the prior art. The claimed invention is novel over the prior art because of the claimed formula $(X^1)_a-F^1-(X^2)_b$ and the Applicants respectfully request the Examiner to reconsider the grounds for rejection in view of this understanding of the invention.

Rejection under Section 112. In addition to the remarks provided above and in prior responses, the Applicants would like the Examiner to consider the following remarks.

The Applicants’ claims should be allowed based on the USPTO’s own written description guidelines. The Applicants’ invention does not fit neatly within any of the examples provided by the guidelines, but its satisfaction of the requirements of Section 112 can be understood by analogy to Example 16 of the guidelines. In that Example, the inventor provided a novel antigen and claimed all antibodies to the novel antigen. Here, the inventors have discovered a novel class of molecules (“peptibodies”) and applied that class to a known antigen (Ang-2). For Example 16, the guidelines note:

Considering the routine art-recognized method of making antibodies to fully characterized antigens, the well defined structural characteristics for the five classes of antibody, the functional characteristics of antibody binding, and the fact that the antibody technology is well developed and mature, one of skill in the art would have recognized

¹ The present application is part of the patent family that includes US Prov. Appln. 60/105,371 filed 23 October 1998; USSN 09/428,082 filed 22 October 1999 (Now US Patent No. 6,660,843); USSN 09/563,286 filed 3 May 2000; USSN 10/609,217 filed 27 June 2003; USSN 10/632,388 filed 31 July 2003; USSN 10/645,761 filed 18 August, 2003; 10/645,784 filed 18 August 2003; USSN 10/651,723 filed 29 August 2003 and 10/653,048 filed 29 August 2003.

that the spectrum of antibodies which bind to antigen X were implicitly disclosed as a result of the isolation of antigen X.

Synopsis of Application of Written Description Guidelines, page 60.

Here, the method of generating the peptides is art-recognized and routine; the antigen (Ang-2) is fully characterized; the claimed formula provides well-defined structural characteristics; peptide generation technology is well developed and mature; and one of skill in the art would recognize the spectrum of molecules within the claimed formula as a result of the Applicants' disclosure of that formula. Each of these attributes of the claimed invention is supported by the specification.

In view of the foregoing remarks, the Applicants respectfully request the Examiner to withdraw the Section 112 rejection.

Rejection under Section 103. The office action unexpectedly maintained the rejection over Cerretti et al., WO 00/75323, which the Applicants had interpreted as withdrawn based on the Advisory Action.

The Applicants reiterate the arguments they made in the response to the final office action. The degeneracy of the genetic code, as cited in the prior office action, *by definition* refers to nucleic acids encoding the same polypeptide sequence. See Lewin, *Genes IV*, Oxford: Oxford University Press, 1990 (enclosure sent with the response to the final office action). Thus, the mention of degenerate code by Cerretti et al. provides no teaching whatsoever regarding randomized ang-2 binding peptides. Furthermore, Cerretti et al. discuss antibodies to tek, with no suggestion whatsoever regarding antibodies or peptibodies binding to ang-2.

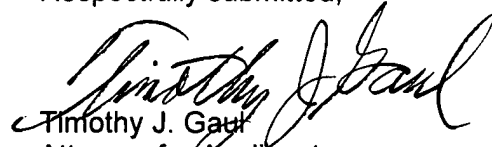
Based on the foregoing remarks and those previously submitted, the Applicants respectfully request the Examiner to withdraw this ground for rejection.

Rejection under Section 102(e). In this rejection, the Examiner applied Oliner et al., U.S. Pat. App. 20030236193. The Oliner application, however, post-dates the subject application. The earliest claimed priority of Oliner et al. is to U.S. Provisional Application Serial No. 60/328,624, filed Oct. 11, 2001. That date is after all of the applications from which the present application claims priority. See the Updated Filing Receipt for this application, mailed January 7, 2004 (copy enclosed). Thus, the Applicants respectfully request the Examiner to withdraw this ground for rejection.

Conclusion. In light of the foregoing remarks, the Applicants respectfully request reconsideration of the Office Action, entry of all amendments, and allowance of all claims.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Timothy J. Gaur", written over the typed name.

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